

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with **D.N.J. LBR 9004-1(b)**

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Attorneys for Microsoft Corporation

In re:

BED BATH & BEYOND, *et al.*,

Debtors.

Chapter 11

Case No. 23-13359

Jointly Administered

Related Docket No: 714

LIMITED OBJECTION OF MICROSOFT TO NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Microsoft Corporation (“*Microsoft*”) respectfully submits the following limited objection to Debtors’ *Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* (the “*Notice*”) (D.I. 714) and states:

1. Microsoft Corporation (“*Microsoft*”) and Bed Bath & Beyond (“*Debtor*”) are parties to multiple agreements (collectively, the “*Licenses*”). The Licenses comprise the contractual vehicle through which Debtor obtained subscriptions for Microsoft’s products and services. The Licenses are executory contracts for the non-exclusive license of intellectual property and the payment of royalties as described by 11 U.S.C. § 365(n), and payments due under the Licenses constitute royalties. *In re Prize Frize*, 32 F.3d 426 (9th Cir. 1994).

2. Debtor proposes to potentially assume and assign certain executory contracts with Microsoft, and the Notice lists the following Microsoft contracts and cure amounts:

#	Debtor	Counterparty	Contract description	Cure amount
1246	Bed Bath & Beyond Inc.	MICROSOFT CORPORATION_IT100875	Microsoft IDP License	-
1247	Bed Bath & Beyond Inc.	MICROSOFT CORPORATION_IT100875	Microsoft Volume Licensing Extended Support for Windows 2008 Servers	-
1248	Bed Bath & Beyond Inc.	MICROSOFT CORPORATION_IT100875	Microsoft Volume Licensing SCE and GitHub Renewal	-
1249	Bed Bath & Beyond Inc.	MICROSOFT CORPORATION_IT100875	Microsoft Volume Licensing - Additional GitHub Licenses	-
1250	Bed Bath & Beyond Inc.	MICROSOFT CORPORATION_IT100875	Microsoft GitHub New Licenses & Subscriptions	-
1251	Bed Bath & Beyond Inc.	MICROSOFT CORPORATION_IT100875	Microsoft EAS Annual Order Year 3 (\$2,061,199.92)	3,901,285.52
1252	Bed Bath & Beyond Inc.	MICROSOFT ONLINE INC	PromoteIQ Curation Services Order	8,936.52

(D.I. 714, at page 27)

3. The proposed cure amount for the Licenses is incorrect. Upon information and belief, the \$3,901,285.52 scheduled reflects the amounts owed under the following invoices which total \$3,901,528.07 (we believe the small discrepancy comes from a reversal of the digits 258 and 528):

Invoice Number	Amount
9881802202	\$1,541,269.19
9881802218	\$64,968.00
9881802221	\$57,294.70
9881767893	\$984.08
9881671567	\$963.80
9881835621	\$949.92
9881609247	\$927.98
9881999732	\$916.92
9881393949	\$887.62
9881907343	\$886.32
9881529884	\$874.17
9881314892	\$864.00
9881464144	\$854.36
9881805716	\$2,061,199.92
9881699298	\$166,777.50
9882072112	\$909.57
Total	\$3,901,528.07

4. However, the proposed cure amount omits the following two additional invoices that were generated post-petition:

Invoice Number	Invoice Date	Due Date	Amount
9882092564	5/18/2023	6/17/2023	\$197,593.00
9882149028	6/10/2023	7/10/2023	\$934.52
		Total	\$198,527.52

All outstanding prepetition and post-petition invoices must be paid by the Debtor prior to assumption of the Licenses pursuant to Section 365(b)(1) of the Bankruptcy Code. Copies of the above post-petition invoices are attached as Exhibits A and B.

5. As of the date of this Limited Objection, the cure amount for the Licenses is **\$4,100,055.59**.

6. Debtor continues to utilize the Microsoft services provided for under the Licenses post-petition, some of which are invoiced monthly in arrears. Accordingly, the cure amount may increase based on the Debtor's ongoing usage of Microsoft's products and services and the actual date of assumption and cure.

7. Microsoft reserves the right to withdraw this Limited Objection or revise the stated cure amounts pending further investigation.

WHEREFORE, Microsoft objects and states that the cure amount for the Licenses is at least **\$4,100,055.59** as of the date of this Limited Objection.

Dated: June 22, 2023

FOX ROTHSCHILD LLP

/s/ Jesse M. Harris

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Attorneys for Microsoft Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 22, 2023, a true and correct copy of the foregoing LIMITED OBJECTION OF MICROSOFT TO NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES was served via the Electronic Case Filing System for the United States Bankruptcy Court for the District of New Jersey to all parties registered to receive such notice.

Also, the parties below were served via email or U.S. Mail:

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Office of the United States Trustee for Region 3

District of New Jersey
Raymond Boulevard, Suite 2100,
Newark, NJ 07102
Attn: Fran B. Steele

FOX ROTHSCHILD LLP

/s/ Jesse M. Harris

Jesse M. Harris (NJ Bar No. 266252018)

EXHIBIT A



Sold To

Bed, Bath & Beyond Inc
Attn: Accounts Payable
Contact: Payable
Customer # 0005210226
650 Liberty Avenue
Union, NJ 07083-8107
UNITED STATES
Phone: 908-688-0888

Bill To

Bed, Bath & Beyond Inc
Attn: Accounts Payable
Customer # 0005210226
650 Liberty Avenue
Union, NJ 07083-8107
UNITED STATES
Phone: 908-688-0888

Ship To

Bed, Bath & Beyond Inc
ATTN: Richard Rosello
Customer # 0005579655
650 Liberty Avenue
Union, NJ 07083-8107
UNITED STATES
Phone: 908-613-5468

Summary

Invoice Number	9882092564
Invoice Date	18-May-2023
PO Number	MSAOC-AO-7777143-1
PO Date	11-May-2023
Due Date	17-Jun-2023
Payment Terms: Net payment due 30 days from invoice date	
Total Amount Due	USD 197,593.00

End Customer

Bed Bath & Beyond Inc.
Contact: Rosello, Richard
650 Liberty Ave
UNION, NJ 07083-8107
UNITED STATES
PCN AC89C423
Phone: 9086135468

Program ESU

Enrollment # 7777143
Master # E0909906

Billing Summary

(Amount in USD)

Charges	197,593.00
Net Amount	197,593.00
Sales Tax	0.00
Total (including Tax)	USD 197,593.00

PAYMENT INSTRUCTIONS:

Microsoft Corporation

Bank of America - Acct:3751205782

ABA#111000012-ACH / ABA#026009593-Wire

1950 N. Stemmons Fwy Ste 5010

DALLAS, TX, 75207

United States

Payment should only be made by Electronic Funds Transfer

Do not send any physical payment to any address on this invoice



Microsoft Corporation | One Microsoft Way, Redmond, WA 98052, United States | FEIN: 91-1144442

Billing Details By Product

(Amount in USD)

Usage Charges	Unit Price	Qty	Net Charge	Tax Amount	Total
Win Remote Desktop Services CAL					
ALng LSA Location Connector	130.64	1,210.000	158,074.40	0.00	158,074.40
01-Apr-2023 - 31-Mar-2024					
Win Server CAL ALng LSA Location					
Connector	32.66	1,210.000	39,518.60	0.00	39,518.60
01-Apr-2023 - 31-Mar-2024					
					Net Amount
					197,593.00
					Sales Tax
					0.00
					Total
					USD 197,593.00



Definition of terms used in this Invoice

Charges

Usage and Purchases from Microsoft for the said period

Net Charge

Price * Quantity - Commitment usage

Usage Charges

Product/SKU description

Net Amount

Charges after utilizing credits from Monetary commit (MC)

Unit Price

Price per unit

Tax Rate

Rate of Taxation as per local guidelines

Qty

Purchases/amount consumption for the said period

Tax Amount

Tax rate * Net charge

Commitment Usage (also known as Monetary Commit (MC))

Credits drained from the prepaid balance

Total

Net charge + Tax amount

EXHIBIT B

Sold To

Bed Bath & Beyond Inc.

Attn: Accounts Payable

Contact: Payable

Customer # 0005206791

650 Liberty Avenue

Union, NJ 07083-8107

UNITED STATES

Phone: 908-613-5468

Bill To

Bed Bath & Beyond Inc.

Attn: Accounts Payable

Customer # 0005206791

650 Liberty Avenue

Union, NJ 07083-8107

UNITED STATES

Phone: 908-613-5468

Ship To

Bed Bath & Beyond Inc.

Attn: Accounts Payable

Customer # 0005206791

650 Liberty Avenue

Union, NJ 07083-8107

UNITED STATES

Phone: 908-613-5468

Summary

Invoice Number	9882149028
Invoice Date	10-Jun-2023
PO Number	261900-O150
PO Date	10-Jun-2023
Billing Period	01-May-2023 - 31-May-2023
Due Date	10-Jul-2023
Payment Terms: Net payment due 30 days from invoice date	
Total Amount Due	USD 934.52

End Customer

Bed Bath & Beyond Inc.

Contact: March,Cliff

650 Liberty Avenue

UNION, NJ 07083-8130

UNITED STATES

PCN A6CED854

Phone: 908-688-0888

Program E6

Enrollment # 50256247

Master # E0909906

Billing Summary

(Amount in USD)

Charges	934.52
Net Amount	934.52
Sales Tax	0.00
Total (including Tax)	USD 934.52

PAYMENT INSTRUCTIONS:

Microsoft Corporation

Bank of America - Acct:3751205782

ABA#111000012-ACH / ABA#026009593-Wire

1950 N. Stemmons Fwy Ste 5010

DALLAS, TX, 75207

United States

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Billing Summary by Product Family

(Amount in USD)

Usage Charges	Total (excluding Tax)
APP SERVICES	0.26
AZURE COMPUTE	101.15
AZURE CONTAINER REGISTRY	20.64
AZURE NETWORKING	176.98
AZURE PLATFORM DATA TRANSFR	29.73
AZURE SSD COMPUTE	108.62
AZURE STORAGE	497.14
	Net Amount
	934.52
	Sales Tax
	0.00
	Total
	USD 934.52

For additional billing details, view your detailed invoice and reconciliation file on <https://portal.azure.com/> billing page.

Learn more about billing at <https://aka.ms/eaAzureBilling>.

Definition of terms used in this Invoice

Charges

Usage and Purchases from Microsoft for the said period

Net Amount

Charges after utilizing credits from Monetary commit (MC)

Commitment Usage (also known as Monetary Commit (MC))

Credits drained from the prepaid balance